

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 10, 2006

AMENDED IN ASSEMBLY JUNE 28, 2006

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 212

Introduced by Senator Lowenthal

February 10, 2005

An act to repeal Section 103900 of the Health and Safety Code, and to amend and repeal Section 12818 of, and to add Article 6 (commencing with Section 13010) to Chapter 1 of Division 6 of, the Vehicle Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 212, as amended, Lowenthal. Lapses of consciousness: reports to the Department of Motor Vehicles.

Under existing law, a physician and surgeon is required to report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a disorder characterized by lapses of consciousness. Existing law requires the State Department of Health Services, in cooperation with the Department of Motor Vehicles, to define disorders characterized by lapses of consciousness, and to include within the defined disorders Alzheimer's disease and related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle. Existing law further requires the local health officer to provide this information

to the Department of Motor Vehicles, for the information of that department in enforcing the Vehicle Code.

This bill would delete the existing provisions and instead would authorize a physician and surgeon to report to the Department of Motor Vehicles (DMV) in good faith specified information relating to a patient at least 15 years of age, or 14 years of age if the patient has a junior permit, whom the physician and surgeon has diagnosed as having suffered a lapse of consciousness, if the physician and surgeon reasonably believes that reporting the patient will serve the public interest.

This bill would require a physician and surgeon to report specified information to the DMV, in writing, regarding certain patients the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder, or with a disorder characterized by lapses of consciousness within the previous 6 months, as specified. The bill would excuse a physician and surgeon from these mandatory reporting requirements relating to lapse of consciousness disorders under designated circumstances.

This bill would exempt a physician and surgeon from civil and criminal liability for making a report authorized or required by the bill. The bill would require the department, upon receipt of a report made pursuant to the bill, to make a determination to revoke or suspend a license based on the evaluation and assessment provided by the reporting physician, and to require a road examination for certain licensees.

This bill would require the department, in cooperation with the State Department of Health Services and in consultation with appropriate professional medical organizations, to adopt regulations defining disorders characterized by recurrent lapses of consciousness, and listing those disorders that do not require reporting under the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 103900 of the Health and Safety Code
- 2 is repealed.
- 3 SEC. 1.5. Section 12818 of the Vehicle Code, as amended by
- 4 Section 13 of Chapter 985 of the Statutes of 2000, is repealed.

SEC. 2. Section 12818 of the Vehicle Code, as added by Section 14 of Chapter 985 of the Statutes of 2000, is amended to read:

12818. (a) Upon receipt of a request for reexamination and presentation of a legible copy of a notice of reexamination by a person issued the notice pursuant to Section 21061, the department shall reexamine the person's qualifications to operate a motor vehicle pursuant to Section 13801, notwithstanding the notice requirement of Section 13801.

(b) Based on the department's reexamination of the person's qualifications pursuant to subdivision (a), the department shall determine if either of the following actions should be taken:

(1) Suspend or revoke the driving privilege of that person if the department finds that any of the grounds exist which authorize the refusal to issue a license.

(2) Restrict, make subject to terms and conditions of probation, suspend, or revoke the driving privilege of that person based upon the records of the department as provided in Chapter 3 (commencing with Section 13800).

(c) As an alternative to subdivision (a), the department may suspend or revoke the person's driving privilege as provided under Article 2 (commencing with Section 13950) of Chapter 3.

(d) Upon request, the department shall notify the law enforcement agency that employs the traffic officer who issued the notice of reexamination of the results of the reexamination.

(e) Upon receipt of a report made pursuant to Section 13010 or 13011, the department shall make a determination to revoke or suspend a license based upon the evaluation and assessment provided by the reporting physician and surgeon and the factors enumerated in Section 110.01 of Title 13 of the California Code of Regulations. The department shall require a road examination, as described in Section 12804.9, for any licensee reported pursuant to subdivision (a) of Section 13011. For any other licensee reported pursuant to Section 13010 or 13011, the department may, at its discretion, require a road examination.

SEC. 3. Article 6 (commencing with Section 13010) is added to Chapter 1 of Division 6 of the Vehicle Code, to read:

Article 6. Physician and Surgeon Reporting of Medical
Conditions

13010. (a) A physician and surgeon shall report immediately to the department, in writing, the name, date of birth, and address of every patient at least 15 years of age, or 14 years of age if the patient has a ~~conditional license~~ *junior permit*, whom (1) the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder; or (2) the physician and surgeon has diagnosed as suffering from a single lapse of consciousness within the previous six months, if the patient suffers from a disorder identified in Section 2806 of Title 17 of the California Code of Regulations, and the physician or surgeon believes, in his or her professional judgment, that the risk of recurrence is sufficient to pose a threat to public safety; or (3) the physician and surgeon has diagnosed the patient as previously suffering multiple lapses of consciousness, and whose medical condition is identified in Section 2806 of Title 17 of the California Code of Regulations, if substantial medical evidence suggests a recurrence of a lapse of consciousness or that the condition adversely affects the patient's ability to operate a motor vehicle.

(b) A physician and surgeon is not required to make a report pursuant to this section if any of the following occurs:

(1) Within the previous six months, the physician and surgeon previously made a report pursuant to this section for this patient, and the condition has not substantially changed.

(2) Within the previous six months, the patient's condition was initially diagnosed by another physician and surgeon, and the physician and surgeon has knowledge that the prior physician and surgeon either determined that a report was not required under this chapter, or made a report to the department, unless there is substantial medical evidence that the condition has substantially changed and the condition may adversely affect the person's ability to drive.

(3) The physician and surgeon making the initial diagnosis, relying on substantial medical evidence, determines both of the following:

(A) That the disorder can and likely will be controlled and stabilized within 30 days of the initial diagnosis by medication,

1 therapy, surgery, a restriction on activities, or devices, and the
2 treatment has been prescribed, administered or referred.

3 (B) That the patient's condition during the 30-day period does
4 not pose an undue risk to public safety while operating a motor
5 vehicle.

6 (c) A physician and surgeon shall not be civilly or criminally
7 liable to the reported patient for making any report required or
8 authorized by this section.

9 (d) For purposes of this section, "disorders characterized by
10 lapses of consciousness" means those disorders provided for in
11 Section 2806 of Title 17 of the California Code of Regulations.

12 13011. (a) A physician and surgeon may report immediately
13 to the Department of Motor Vehicles, in writing, the name, date
14 of birth, and address of every patient at least 15 years of age or
15 older, or 14 years of age if the person has a junior permit, whom
16 the physician and surgeon has diagnosed as having a disorder
17 characterized by lapses of consciousness, if a physician and
18 surgeon reasonably and in good faith believes that reporting the
19 patient will serve the public interest. The physician and surgeon
20 may report a patient's condition even if it may not be required
21 under the department's definition of disorders characterized by
22 lapses of consciousness pursuant to this article.

23 (b) A physician and surgeon who reports a patient pursuant to
24 this article shall contemporaneously complete and transmit to the
25 department the form prepared by the department for this purpose,
26 and shall address each of the factors specified in Section 110.01
27 of Title 13 of the California Code of Regulations of which the
28 physician and surgeon has knowledge. On or before January 1,
29 2008, the physician reporting form shall be developed by the
30 department to incorporate the factors contained in Section 110.01
31 of Title 13 of the California Code of Regulations. This form shall
32 be made available for downloading at the forms page on the
33 department's official Internet Web site for use by all physicians
34 and surgeons.

35 (c) The reports transmitted pursuant to this article shall be for
36 use by the department only, and shall be kept confidential and
37 used solely by the department for the purpose of determining the
38 eligibility of any person to operate a motor vehicle on the
39 highways of this state, or for the purpose of a bona fide research

1 project, if the data is solely provided by the department in
2 anonymous form.

3 (d) A physician and surgeon shall not be civilly or criminally
4 liable to the reported patient for making any report required or
5 authorized by this section.

6 (e) For purposes of this section, “disorders characterized by
7 lapses of consciousness” shall be those disorders provided for in
8 Section 2806 of Title 17 of the California Code of Regulations.

9 13012. The department, in cooperation with the State
10 Department of Health Services, shall adopt regulations defining
11 disorders characterized by recurrent lapses of consciousness,
12 based upon existing clinical standards for that definition for
13 purposes of this article, and shall include, in that definition
14 Alzheimer’s disease and those related disorders that are severe
15 enough to result in recurrent lapses of consciousness and are
16 likely to impair a person’s ability to operate a motor vehicle. The
17 department, in cooperation with the State Department of Health
18 Services, shall adopt regulations listing circumstances that shall
19 not require reporting pursuant to Section 13011, because the
20 patient is unable to ever operate a motor vehicle or is otherwise
21 unlikely to represent a danger that requires reporting. The
22 department shall also adopt regulations listing circumstances that
23 do not require reporting pursuant to this section. The department
24 shall consult with professional medical organizations whose
25 members have specific expertise and treatment of those
26 impairments, conditions, and disorders, including, but not limited
27 to, those associations related to epilepsy, in the development of
28 any required definitions and necessary reporting guidelines to
29 ensure that cases reported pursuant to this section are limited to
30 impairments, conditions, and disorders that are characterized by
31 a recurrent lapse of consciousness and that compromise a
32 patient’s ability to safely operate a motor vehicle.